UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,373	06/27/2001	Ross A. Schmidt	10731.74US01	5536

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EXAMINER
GODDARD, BRIAN D

ART UNIT	PAPER NUMBER
2171	

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary		Examiner	Art Unit
		Brian Goddard	2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 January 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 June 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date *4*.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This communication is responsive to Amendment A, filed 05 January 2004.

2.   Claims 1-18 are pending in this application. Claims 1 and 14 are independent

claims. In Amendment A, no claims were added or cancelled, and claims 1, 4 and 14

were amended. This action is made Final.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be
used to overcome an actual or provisional rejection based on a nonstatutory double
patenting ground provided the conflicting application or patent is shown to be commonly
owned with this application. See 37 CFR 1.130(b).
Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

3.   Claims 1, 3, 6-9 and 14-16 are provisionally rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3,

8-11 and 12-14 (respectively) of copending Application No. 09/944,712 in view of U.S.

Patent No. 5,778,395 to Whiting et al. Although the conflicting claims are not identical,

they are not patentably distinct from each other because the claims of the instant

application recite only one distinction from the copending claims that would have been an obvious modification to one of ordinary skill in the art.

Referring to claim 1, the copending claim (1) includes all of the limitations of the instant claim except "a data uploading processor, coupled to the file logging processor, for uploading the first database [the database] to a second database." However, the uploading of files from one location to a remote location for archival purposes is common practice in the art, as evidenced by Whiting. In particular, Whiting teaches a data uploading processor [100] for uploading [backing up] a first database [102-105] to a second database [101] as claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Whiting's data uploading processor for uploading the database to a second database, to the data management system of copending claim 1, in order to obtain the invention as claimed. One would have been motivated to do so in the interest of preserving data integrity through archiving, as evidenced by Whiting.

Referring to claim 3, copending claim 3 includes all of the limitations of the instant claim in light of the discussion regarding claim 1 above. In particular, the "tiff format" of the copending claim is "a standardized image format" as claimed.

Referring to claims 6-9, copending claims 8-11 include all of the limitations of the instant claims respectively, in light of the discussion regarding claim 1 above.

Referring to claim 14, copending claim 12 includes all of the limitations of the instant claim in light of the discussion regarding claim 1 above.

Referring to claims 15-16, copending claims 13-14 include all of the limitations of

the instant claims respectively, in light of the discussions regarding claims 1 and 3

above.

4.   This is a <u>provisional</u> obviousness-type double patenting rejection because the

conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

5.   Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent No. 5,974,412 to Hazlehurst et al. in view of U.S. Patent No. 5,778,395 to

Whiting et al.

Referring to claim 1, Hazlehurst discloses a data management system as

claimed. See Figures 4-12 and the corresponding portions of Hazlehurst's specification

for this disclosure. In particular, Hazlehurst teaches a data management system [See

Fig. 4] comprising:

a first processor [slurpee 90] for restoring [See column 7, lines 31-41 & the

discussion of Fig. 6] a plurality of received data files [documents from sources 62], the

data files being capable of being different file types [any type of document];

a file organizing/categorizing processor [grinder 100], coupled to the first

processor [See Figs. 4-5], for organizing the received data files into data slices

[clusters], each data slice including an identification number [cluster centroid vector] and

a descriptor [topic text description] that describes characteristics of the received data

files [See column 11, line 33 et seq.];

a file logging processor [mite 106], coupled to the file organizing/categorizing

processor [See Figs. 4-5], for logging the received data files into a first database [asset

tank 78] based on the data slices [according to the index tank 80];

an image conversion processor [slurpee 90] for converting at least a portion of

the received data files into image files [standard/canonical source-independent format];

and

a second processor [liaison 88], coupled to the image conversion processor, for

exporting the image files [to user 86].

Hazlehurst does not explicitly state that the standard format resulting from the

slurpee file conversion is an image file as claimed. Furthermore, Hazlehurst does not

teach "a data uploading processor, coupled to the file logging processor, for uploading

the first database to a second database" or "a de-duplicate processor, coupled to the

data uploading processor, for calculating a SHA value of the received data files to

determine whether the received data files have duplicates and flagging duplicated data

files in the second database" as claimed. However, Hazlehurst does teach the archival

of some of the documents by the mites (106), as well as the removal of duplicate files

by the slurpees (90). See the respective portions of Hazlehurst's specification for the

details of this disclosure. This provides suggestion for uploading (archiving) the

documents to a second database, and removing duplicates from this database.

Whiting discloses a system and method similar to that of Hazlehurst, wherein documents are uploaded to a second database in an image format, and then de-duplication is performed to remove duplicates. See Figs. 1-3 and the corresponding portions of Whiting's specification for this disclosure. In particular, Whiting teaches a data uploading processor [100] for uploading [backing up] a first database [102-105] to a second database [101] and a de-duplicate processor [either client workstations or agent 108], coupled to the data uploading processor, for calculating a SHA value [hash value] of the received data files to determine whether the received data files have duplicates and flagging duplicated data files in the second database [See the Abstract, Summary, and column 15, line 57 et seq.] as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add Whiting's data uploading processor and de-duplicate processor to the system and method of Hazlehurst, so as to provide a means for backing up data in Hazlehurst's system while eliminating duplicated files, as well as to use an image format as Hazlehurst's standard document format. One would have been motivated to do so because of Hazlehurst's suggestion as discussed above.

Referring to claim 2, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. See Figure 4 and the corresponding portion of Hazlehurst's specification, as well as Figure 1 and the corresponding portion of Whiting's specification, for the details of this disclosure. In particular, Hazlehurst in view of Whiting teaches the system of claim 1, as above, "wherein the first database [Hazlehurst: Asset Tank 78] is a local database [on

Hazlehurst's server system] for at least one data slice [one or more clusters], and the second database [Whiting's Backup Storage 101] is a global database [See Whiting Fig. 1] for all logged data slices [clusters]" as claimed.

Referring to claim 3, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. See the discussion regarding claim 1 above, as well as Hazlehurst's disclosure of the slurpees (90), for the details of this disclosure.

Referring to claim 4, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. Hazlehurst (as modified by Whiting) is silent on any specific format of documents accepted by the intelligent query system. However, Hazlehurst does disclose that any type of document format can be utilized in the IQE system. See column 7, lines 17-30 of Hazlehurst's specification for this disclosure. The examiner takes Official notice that all of the file formats listed in the claim (Microsoft Mail, Microsoft Outlook, GroupWise, Lotus Notes, Microsoft Word, Microsoft Excel, Microsoft PowerPoint, and Microsoft Access) were common file formats at the time of applicants' invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the system of Hazlehurst in view of Whiting to accept documents in these file formats. One would have been motivated to do so because of Hazlehurst's explicit disclosure as discussed above.

Referring to claim 5, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. See column 35, lines 44-

51 of Whiting's specification for this disclosure. Whiting's uploading processor, as applied to Hazlehurst's system, provides the attachment viewing functionality as claimed.

Referring to claim 6, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. See column 11, lines 5-30 of Hazlehurst's specification for this disclosure. Although Hazlehurst (as modified by Whiting) does not explicitly disclose the file logging processor [mite], image conversion processor [slurpee], and the second processor [liaison] as working in parallel, suggestion for such is provided in the discussion regarding learning functions in neural networks on column 11, lines 5-30. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement Hazlehurst's (as modified by Whiting) mites, slurpees, and liaisons as parallel processors so as to perform their respective tasks in parallel to obtain the invention as claimed. One would have been motivated to do so because of Hazlehurst's direct suggestion as above.

Referring to claim 7, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. See Figures 4 and 5 and the corresponding portions of Hazlehurst's specification for this disclosure. In particular, Hazlehurst in view of Whiting discloses the system of claim 1, as above, "wherein the data files [documents] having the same file type [same source type] are converted into the image files together [each source type (62) has its own slurpee (90)]" as claimed.

Referring to claim 8, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. Again see Figures 4 and 5

and the corresponding portions of Hazlehurst's specification for this disclosure. In

particular, Hazlehurst in view of Whiting discloses the system of claim 1, as above,

"wherein the data management system [See Figs. 4-5] includes a plurality of image

conversion processors [slurpees (A, B, etc.)], each of the image conversion processors

being capable of converting the data files [documents] having the same file type [same

source type] into the corresponding image files" as claimed.

Referring to claim 9, the system and method of Hazlehurst in view of Whiting as

applied to claim 1 above discloses the invention as claimed. See column 15, line 57 et

seq. of Whiting's specification for this disclosure. In particular, Whiting's backup

system, as applied to the system and method of Hazlehurst, identifies the file type of the

data files based on the SHA value [hash value] and a file header of each of the data

files as claimed.

Referring to claims 10 and 11, the system and method of Hazlehurst in view of

Whiting as applied to claim 1 above discloses the invention as claimed. See Figures 4-

9 and the corresponding portions of Hazlehurst's specification for this disclosure. In

particular, Hazlehurst's (as modified by Whiting) system further comprises a keyword

search processor [collator 108], coupled to the file logging processor [mite 106] and

image conversion processor [slurpee 90], for searching a keyword [query topic] from the

received data files [for logging by the mites] or the stored image files [for return to the

user by liaisons], wherein if there is a hit, the corresponding document is logged in the

asset tank (78) or exported to the user, and a data file without a hit is discarded [See

column 2, lines 43-47 and column 10, lines 11-20] and not exported.

Referring to claim 12, the system and method of Hazlehurst in view of Whiting as applied to claim 1 above discloses the invention as claimed. See Figure 6 and the corresponding portion of Hazlehurst's specification for this disclosure. In particular, Hazlehurst's (as modified by Whiting) system further comprises a file status filter [screens 91 & 93] to indicate different statuses of the received data files [See column 8, line 40 et seq.] as claimed.

Referring to claim 13, the system and method of Hazlehurst in view of Whiting as applied to claim 12 above discloses the invention as claimed. Hazlehurst (as modified by Whiting) is silent on the particular statuses filtered by the screens. However, Hazlehurst does state that the screens can detect and/or remove any characteristics from the documents. The examiner takes Official notice that all of the file statuses listed in the claim (new, in-progress, done, error, corrupted, encrypted, no keyword hit, big file, large page count) were common file statuses at the time of applicants' invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the system of Hazlehurst in view of Whiting to detect these file statuses by the screens 91 and 93. One would have been motivated to do so because of Hazlehurst's explicit disclosure as discussed above.

Claim 14 is rejected on the same basis as claim 1. See the discussion regarding claim 1 above for the details of this disclosure.

Referring to claim 15, the method of Hazlehurst in view of Whiting as applied to claim 14 above discloses the invention as claimed. In particular, Hazlehurst's (as

modified by Whiting) user (86) can view the image files stored in the second database

[see above] after export from the IQE system of a retrieved document.

Claim 16 is rejected on the same basis as claim 3, in light of the basis for claim

14 above. See the discussions regarding claims 1 and 3 for the details of this

disclosure.

Claims 17-18 are rejected on the same basis as claims 10-11 respectively, in

light of the basis for claim 14 above. See the discussions regarding claims 1, 10 and 11

for the details of this disclosure.

Response to Arguments

6.   Applicant's arguments filed 05 January 2004 have been fully considered but they

are not persuasive.

Referring to applicants' remarks on pages 7-8 regarding the Section 103

rejections of the independent claims: Applicants argued that Hazlehurst's clusters

including centroid vectors and text descriptions are not equivalent to the claimed data

slices including an identification number and a descriptor. Therefore, applicants argued

that Hazlehurst fails to disclose or suggest a data slice including an identification

number and a descriptor that describes characteristics of the received data files as

claimed.

The examiner disagrees for the following reasons: Applicants' arguments are

based on the 'definition' of the term "data slice" provided in the instant specification.

However, this 'definition' is heavily arrayed with examples, upon which applicants'

arguments are predicated. As per MPEP § 2111.01, the terms of a claim are accorded their plain meaning unless clearly and explicitly defined in the specification. In the instant case, the exemplary definition of "data slice" is open-ended, and fails to clearly and explicitly limit the bounds encompassed by the term. Therefore, the only definition given to the term "data slice" is "a label assigned to a set or collection of data."

Hazlehurst's cluster is clearly a set or collection of data [files], labeled by its centroid vector. Therefore, the examiner maintains that Hazlehurst teaches a "data slice" as claimed. Furthermore, the claimed "characteristics of the received data files" are not limited by the examples provided for the same reasons as discussed above. Thus, topics and central concepts in the content of the data files are "characteristics" of the received data files as claimed. Hazlehurst therefore discloses a data slice [cluster] including an identification number [cluster centroid vector] and a descriptor [topic text description] that describes characteristics [topicality/central concepts in the content of the files] of the received data files as claimed.

Referring to applicants' remarks on page 6 regarding the Double Patenting rejections: Applicants reserved comment on the provisional rejection until either the present application or the '712 application issues as a patent.

It is therefore noted that the provisional double patenting rejection stands maintained at this time.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Brian Goddard whose telephone number is 703-305-

7821. The examiner can normally be reached on M-F, 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

bdg
10 March 2004

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